INERTIA CAN BE OVERCOME

The inertia which has provided nourishment to these seven scourges can be overcome in most communities through a constructive program of citizen interest in and support of all phases of local governmental activity.

AND COUNTIES WILL WELCOME YOUR HELP

County governments will welcome your constructive help in every county where you have a local chapter and in every county where you should have a chapter. In my opinion, there should be an active Izaak Walton League chapter in every one of the Nation's 3,043 counties.

WHY THE COUNTY?

Why am I stressing the county level of government as the focal point for your local chapters to work with in their battle for a better outdoor environment for their communities?

The answer is found in the realization that the objectives of the "playground movement" have been effectively implemented through the municipal governments and local school districts. Conversely, large statewide or national areas of significance have been and are being developed by the State and Federal levels of government.

In between these two types of existing programs lies our Nation's greatest unfilled outdoor recreation need.

THE RECREATION VACUUM

This need has been expressed as the so-called recreation vacuum and citizens are increasingly demanding that it be filled.

This vacuum can be expressed as the need for nearby local parks and recreation areas which are readily accessible to everyone, particularly for the nature-starved city dwellers who reside within the mortar and brick of large metropolitan complexes.

For most areas, the available lands for these purposes are located out in the countryside, far beyond the city limits.

This factor has clearly placed the primary local governmental responsibility for the acquisition and development of these areas squarely with the county level of government.

A DECADE OF PROGRESS

This governmental responsibility has been recognized by county governments and the decade of the 1950's brought dramatic results, including:

1. An eightfold increase, from 5,000 to 42,000, in the number of volunteer leaders who donated their services to county recreation programs.

2. A tripling in the number of county parks as they increased from 933 to 2,610.

3. A doubling in total county park acreage to 430,707 acres, with the average county park now covering 165 acres.

4. A 1960 total of 20,263 full-time employees who worked on various aspects of county park and recreation programs.

5. A doubling in county park and recreation expenditures from $67 million to over $122 million in only 5 years.

These statistics indicate the significant start that has been made by county governments in their endeavors to fill this recreational vacuum.

Nonetheless, a rapid acceleration in these programs is needed. It will require active citizen support and participation in all facets of the county's program.

A CALL FOR CITIZEN LEADERSHIP

The Izaak Walton League's local chapters today stand in the same unique position that your national organization was in 6 years ago—namely, being faced with the opportunity to provide the local leadership for creating an atmosphere of strong citizen support and direction to the programs of their local governments.

How can local chapters find out what is needed and how they can participate in their county's program?

The answer is simple—ask.

My solitary reason for being here today is to tell you that the county level of government will welcome your constructive help, your contagious enthusiasm, and your offers of cooperation, particularly when they are "backed up" by donations of land, money, facilities, and/or volunteer labor.

SPEAK UP

An urgent, pressing requirement facing all local governments is the further need for vigorous-minded citizens, hopefully through the leadership of local Izaak Walton League chapters, who are willing to speak up on the need for:

1. Long-range and continuous planning in community and county affairs.

2. An orderly development of all our outdoor resources.

3. Citizen participation in every phase of local planning and development.

4. The protection and preservation of the natural beauty of the nearby countryside.

NO SIMPLE TASK

The task will not be simple, for in its totality it will require the summoning of the American people to the realities of their local responsibilities.

NACO CAN HELP

The National Association of Counties offers its full program of services and support to any Izaak Walton League member or citizen in this cooperative endeavor.

Complete information on every facet of county parks and recreation will be provided in our 342-page book, entitled "County Parks and Recreation—A Basis for Action," which will be published next week.

The 71 articles in this book highlight the assembled knowledge, viewpoints, and suggestions of a distinguished group of national and county authorities.

It will be the first time that an action-oriented guide has ever been compiled for both citizen organizations and decisionmaking county officials.

Immediately after the land and water conservation fund bill is enacted into law, the National Association of Counties and the Citizens Committee for the ORRRC report will jointly publish a 32-page booklet which will, as its title indicates, "Spotlight County Parks and Recreation." It will stress strong citizen participation in all county programs and in this imaginative new national outdoor recreation emphasis.

These two publications will be available, upon request, to any citizen and will provide specific guidelines, ideas, and suggestions for developing or expanding countywide programs.

They will also spell out how you can contribute your time, energy, and services in a constructive and productive manner.

DEPRESSIVE IMPACT OF THE SEVEN SCROUGES

It is not necessary for me to enumerate the ill effects of the seven scourges, since they plague nearly every community in the United States. Their depressive impact on property values, aesthetic sensibilities, and health considerations are readily apparent.

Despite the deleterious effect of the seven scourges, they can be controlled and eventually eliminated through an active program of public participation in the development of local plans to improve a county or a community and a similar degree of enthusiastic support in the implementation of these plans.

This goal can be achieved through an enlightened, informed, and interested public. We need active and effective citizen planning committees which will join forces with their local governments in a constructive manner to help guide the development and destiny of every community in the Nation.

My keynote address has purposely extended far beyond the confines of this room and the outstanding agenda for your organization's 42d annual convention and conservation conference.

I have attempted to reach out into each of the communities and counties where you live and provide an action-oriented program for every one of the Izaak Walton League local chapters to follow during the critical months and years before us. The time for action is now.

A VAST NEW HORIZON

This has been a rewarding experience for me to participate in this significant conference, and also to work closely during the past year with your national leaders, for I foresee the opportunity of a vast new horizon, a phalanx of local government and citizen cooperation in fully meeting this segment of the outdoor recreation challenge.

With God's help, and your local citizen leadership, His gifts of natural splendor will provide greater meaning and purpose for all of our lives.

Thank you.

ALLEGED BACKLASH

Mr. JAVITS. Mr. President, in recent weeks there has been much talk about the backlash on civil rights. Usually, the term has been used to signify alleged hostility of white citizens to the Negro struggle for equal rights and opportunities. Regardless of whether such hostility actually exists, the term has been used repeatedly since the tragic and inexcusable riots in the Negro ghettoes in New York, Rochester, and Jersey City. What is often left unsaid, however, is that this so-called backlash affects the majority of Negro citizens, as well as the whites. An editorial published in last night's edition of the New York World-Telegram and Sun called attention to this other side of the coin. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York World-Telegram and Sun, Aug. 3, 1964]

THE BACKLASH

Civil rights leaders who are dragging their feet on the proposed moratorium on mass demonstrations misjudge the temper of the Negro as well as the white.

The so-called backlash isn't exclusively the property of white citizens in reaction to agitation for social change that has gone too far, too fast.

In times of heated controversy, it is the loud-mouthed rabblerouser who is inclined to get attention. These, along with some well-intentioned civil rights leaders with actually little acquaintance with conditions in city slums, have been doing a lot of talking for such places as Harlem.

The great, decent, respectable Harlem majority is incoherent or afraid to get into worse trouble by speaking up. But even in the uproar caused by the riots, some of these voices have come through.

From these it's possible to judge:

The decent majority are resentful of police, not so much because they are too tough but because they aren't tough enough. The police have failed to put down the open gambling, the open dope peddling and drunkenness in the streets where their children have to play and walk to school.

They want to get their children into integrated schools, not especially because they want them to associate with white children

but because they believe, right or wrong, that the all-Negro schools are being neglected—that no proper effort is being made to give their children an education.

They want access to housing, not especially because they want to mix with whites but because they want desperately to escape from the rat and cockroach infested slums in which they presently are trapped.

These are human beings, in other words, reacting to poverty and injustice as human beings react everywhere, regardless of color.

They have a special grievance because they associate, with much justification, their troubles with the color of their skin.

But their obvious reaction to the Harlem riots was terror. They have nothing in common with the criminal element which battled the police.

And they have nothing but deeper trouble to be gained through further mass demonstrations, in these tense times, which might provide the excuse for more such disorder. Indeed, they have a great deal to lose.

They have hope of a better life in the civil rights law and in other measures, both local and national, aimed at discrimination, slums, unemployment and inferior schools. This legislation is to a very great extent the handiwork of the majority of Negro leaders of national stature who now urge a breathing spell from mass demonstrations.

The promise of this legislation may be false, but even the promise represents progress. The promise is more likely to prove false if impatient reformers plus congenital troublemakers continue to promote or condone civil disorder which prevents these laws from having a chance.

The minority of civil rights spokesmen who, in effect, would thwart this chance, misunderstand the interest of the people they claim as their own.

They go against the vast majority sentiment in this country, both white and Negro, which now wants to see things done, instead of just listen to more big talk.

SOUTHEAST ASIA PROBLEM

Mr. LAUSCHE. Mr. President, I desire to speak briefly concerning the grave problem facing us in southeast Asia.

The course adopted by the President is not of his choosing, but has been forced upon him and our Nation by the offenses committed by the Communists of North Vietnam. Our ship that was attacked was in international waters, where it had a right to be free from attacks by North Vietnam or any other nation. Neither in the interests of the security of our country nor in the proper maintenance of our honor can we afford a course of action other than the one adopted.

Southeast Asia is our first line of defense; when an enemy attacks us there, he is, in principle, attacking us on our native land. To pull out of southeast Asia would be to surrender that entire area to the Communists. Not only would it mean the capture of South Vietnam and the other lands that once were French Indochina, but it also would definitely endanger all of the lands occupied by friends of the West, including the Philippines and Australia. The stakes are graver than is generally understood. A second course would be to convert South Vietnam into a coalition government made up of friends of the West, Communists, and neutrals. Three-headed governments of this type have always been taken over by the Communists, because the Communists do not keep either the spirit or the letter of their promises.

In 1954, Indochina was broken into small nations; pursuant to solemn promises made by the Communists, Laos was to be independent, and Vietnam was to be divided into North Vietnam and South Vietnam. Never has Communist China or Communist North Vietnam kept its word in the fulfillment of the 1954 Geneva agreement. In 1962, we yielded in Laos, and established a three-headed coalition government, only to realistically discover, within a short time thereafter, that the Communists would not cooperate to maintain the coalition reign.

If we yield to the Communists in their attack upon our country's honor, we definitely shall lose the respect of the people of the world who want to be with us, not with the Reds. We shall also bring the enemy materially closer to our shores. Above everything else, our problem will not be solved or bettered, but in fact, will be substantially worsened. I am convinced that Congress will overwhelmingly stand by the President in the decision which has been made. To do otherwise would be to manifest a will not to resist lawless, unwarranted, and unjustified attacks upon our sovereignty.

FIRST ANNIVERSARY OF NUCLEAR TEST BAN TREATY

Mr. PASTORE. Mr. President, this morning, there was released at the White House a short statement commemorating the first anniversary of the nuclear test ban treaty. Identical statements have been made by the United Kingdom and the Soviet Union—the two nations which, together with the United States, were the original signatories to the treaty.

As one of those who was present in Moscow 1 year ago—on August 5, 1963—and as one who witnessed the signing of that historic document, it is with great satisfaction that I view this statement of expression of unanimity by these three major powers.

Those of us who have seen and know the power of nuclear and thermonuclear weapons recognize the importance of preventing nuclear war. Our Nation is led by a President who does not flinch from ordering U.S. military forces to use force when attacked, and at the same time limits the use of our powerful forces to that which is sufficient to maintain the peace and to protect our rights.

Those who would attack U.S. forces, whether on the high seas or elsewhere, will face immediate retaliation. While we desire peace, and continually negotiate for limitation of armaments, we do so from a position of strength. Let there be no mistake: we negotiate from strength.

The United States, as well as the other two original signatories to this treaty—the United Kingdom and the Soviet Union, can take justifiable pride in drafting and agreeing to the treaty banning nuclear-weapon tests in the atmosphere, in outer space, and under water. More than 100 other nations likewise can take justifiable pride and satisfaction in having placed their signatures on this document.

Let us hope and pray that this, the first anniversary, will be followed each year by additional anniversaries, so that as the years go by, those who follow us can point with ever-increasing confidence and prof that nations will adhere to their solemn promises, and that mankind, no matter of what nationality, will recognize and support what is right, what is proper, what is best for all mankind.

I ask unanimous consent to have printed in the RECORD the statement by the United States, the United Kingdom, and the Union of Soviet Socialist Republics, which was issued today in honor of the anniversary of the signing of the test ban treaty.

I also ask unanimous consent to have printed in the RECORD the statement made by President Johnson on July 30, in connection with the anniversary of the nuclear test ban treaty.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

JOINT STATEMENT BY THE GOVERNMENTS OF THE UNITED STATES, UNITED KINGDOM AND THE UNION OF SOVIET SOCIALIST REPUBLICS

One year ago today the treaty banning nuclear weapon tests in the atmosphere, in outer space and under water was signed by the respresentative of the United States, United Kingdom, and the U.S.S.R. This treaty moved our planet toward a further strengthening of peace. It helps restrict the arms race. It gives all men and women confidence that they and their children will be breathing purer air and living in a healthier, a less contaminated world. The states taking part in the disarmament negotiations at Geneva made their contribution to this cause. The positive role played by the Secretary General of the U.N. U Thant, in the conclusion of the treaty banning nuclear weapon tests in the three elements is worthy of note. Since the signing of the treaty, most of the world's states—more than 100—have joined the three original signatories. Since then, also, additional—if limited—steps have been taken to reduce nuclear hazards to mankind. Such are the resolution of the General Assembly of October 17, 1963, on banning of weapons of mass destruction in outer space and the steps taken by the United States, United Kingdom, and the U.S.S.R. in the early months of this year to cut back production of plutonium and enriched uranium.

These have been significant and valuable steps, but only first steps. Serious problems and differences remain to be dealt with in order to achieve a downturn in the arms race, effective disarmament and secure peace. With a sincere concern for the true interests of all nations and through a constructive effort to achieve agreement consistent with those interests, we can seek to move along the road to understanding and to peace.

In marking the first anniversary of the signing of the treaty banning nuclear weapon tests in the atmosphere, in outer space and under water, we declare our intention to do everything possible for the solution through negotiations of unresolved international problems in order to strengthen general peace, the benefits of which would be enjoyed by all states, big and small, and by all people.

STATEMENT BY THE PRESIDENT

A year ago this week the nuclear test ban treaty was agreed on.

Today, a year later, more than 100 nations have joined the three original signing countries. We have also seen a U.N. resolution banning weapons of mass destruction in outer space, and steps to cut back production of fissionable materials.

A year without atmospheric testing has left our air cleaner. This is a benefit to every American family—and to every family everywhere—since all radiation, however small, involves some possibility of biological risk to us or to our descendants.

At the same time, we have taken every precaution to insure the security of the United States. To this end, we have put into full effect the program of safeguards originally approved by President Kennedy on the advice of the Joint Chiefs of Staff. I can report that the Chiefs have reviewed the present program and agree that satisfactory progress is being made under it. Indeed the safeguards program leaves us much safer against surprises than we were in the period of moratorium begun in 1959.

Even if this treaty should end tomorrow, the United States would be safer and stronger than before.

We owe the test ban treaty, and this year of progress, to the determined and dedicated leadership of a great President, and the Senate of the United States. This leadership toward peace had no partisan tinge. Four-fifths of the Democrats and three-fourths of the Republicans in the Senate voted for this treaty. It is therefore right that Americans without regard to party should give thanks in this anniversary week for what the President and the Senate achieved last year.

This thankfulness can be traced to the deep desire that all of us have for a world in which terror does not govern our waking lives. We should think of a world in which we need not fear the milk which our children drink; in which we do not need engage in agonizing speculation on the future generations and whether they will be deformed or scarred.

We can live in strength without adding to the hazards of life on this planet. We need not relax our guard in order to avoid unnecessary risks. This is the legacy of the nuclear test ban treaty and it is a legacy of hope.

WESTLANDS WATER DISTRICT CONSTRUCTION CONTRACT OF 1963

Mr. MORSE. Mr. President, I would like to direct the attention of Senators to a contract now before the Senate Committee on Interior and Insular Affairs, which, unless objected to by Congress, will go into force next week. This is the Westlands water distribution system contract, and involves, in my opinion, a clear and evident circumvention of the 160-acre limitation provisions of reclamation law. It has been opposed by the National Grange, the California State Grange, the National Farmers Union, the AFL–CIO, the National Catholic Rural Life Conference, the American Veterans Committee, the National Advisory Committee on Farm Labor and the National Sharecroppers Fund.

In order to bring to light the compelling arguments against this contract, I ask unanimous consent to have printed in the RECORD at this point three of the statements made before the Subcommittee on Irrigation and Reclamation of the Senate Interior Committee on July 8 and 9 in opposition to the contract. The first of these was presented to the committee by my able and esteemed colleague, the junior Senator from Wisconsin [Mr. NELSON]; the second is the testimony of Dr. Paul S. Taylor of Berkeley, Calif., who served as consultant in the Interior Department during the administrations of Presidents Harry Truman and Franklin Roosevelt. The third was presented by Mr. Jacob Clayman, administrative director of the Industrial Union Department of the AFL–CIO. These very articulate statements outline clearly the history of this contract and establish beyond a doubt its illegality under existing reclamation law.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GAYLORD NELSON ON THE WESTLANDS WATER DISTRICT CONSTRUCTION CONTRACT AND WATER SERVICE CONTRACT OF 1963

SUMMARY

There has been presented to this committee through the submittal to it by the Secretary of the Interior pursuant to Public Law 86–488, 86th Congress, S. 44, June 3, 1960, a document designated "Contract Between the United States and Westlands Water District Providing for the Construction of a Water Distribution and Drainage Collector System."

Provision is made in paragraph 20 of the document that "no water shall be delivered through the distribution system to any lands or persons not eligible under the terms of articles 23, 24, and 25 of the water service contract (dated June 5, 1963) to receive water made available pursuant to that contract." As a consequence this committee is requested to approve, sight unseen, the water service contract, mentioned in the last quotation. Specifically a review of the contracts with the Westlands water district and the circumstances surrounding them, appear to reveal:

(1) A circumvention of the excess land laws written into the Reclamation Act, as amended, by the Congress to prevent land and water monopolies.

(2) A discrimination against those landowners who comply with the excess land laws and great benefits for those large, ineligible, excess landowners who will receive Federal subsidization totaling millions of dollars.

(3) An apparent relinquishment of title to water rights belonging to the United States by agreeing in the water service contract of 1963 not to assert title to those replenishment waters.

If the conclusion I have drawn in this memorandum, based upon my examination of the 1963 water service contract and the construction contract before this committee, is valid, it would appear that:

(1) The contract submitted to the Congress by the Secretary of the Interior should be rejected by this committee and returned with specific objections both as to that contract before it and the water service contract;

(2) The committee should oppose the appropriation of any Federal funds for the construction of the distribution system and drains provided for in the contract.

Under appropriate headings this memorandum reviews the contracts and physical features relating to the above mentioned contracts.

AVOIDANCE OF THE EXCESS LAND LAWS OF THE RECLAMATION ACT, AS AMENDED

Congress by Public Law 86–488, 86th Congress, S. 44, June 3, 1960, authorized the Secretary of the Interior to construct the San Luis Unit of the Central Valley project. Involved are two service areas—Federal and State. This consideration is directed solely to the former.

There are two salient features of Public Law 86–488 to which reference is now made:

1. It is specifically declared that: "In constructing, operating and maintaining the San Luis unit, the Secretary of the Interior shall be governed by the Federal reclamation laws (act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto)."

2. Provided likewise by the act in question is the following: "Section 8. There is hereby authorized to be appropriated for construction of the works of the San Luis unit * * * other than distribution systems and drains the sum of $290,430,000 * * * *Provided*, That no funds shall be appropriated for construction of distribution systems and drains prior to 90 calendar days * * * after a contract has been submitted to the Congress calling for complete repayment of the distribution systems and drains within a period of 40 years from the date such works are placed in service."

Emerging from those two quoted excerpts is the obvious conclusion that the Federal service area is to be constructed, operated and maintained in conformity with the Reclamation Act as amended, including but not limited to the "excess lands laws." Basically those laws preclude the delivery of water for use on land held in one ownership which exceeds 160 acres. Obvious objectives of the laws are (a) To avoid land and water monopolies; (b) To prevent land speculation predicated upon the project development.[1]

To bring about compliance with the "160-acre limitation" mentioned above Congress has declared "that no such excess lands so held shall receive water from any project or division if the owner thereof shall refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary of the Interior.[2] Important in regard to the precise point before this Committee is the fact that the act specifically declares that "excess lands" shall not "receive water from any project."

That prohibition is crucial and unqualified for it fixes the responsibility of the Secretary in regard to project waters with great specificity; restrains that official from providing water to lands the owners of which have not agreed to dispose of lands which exceed the 160-acre limitation. Warranted in that connection is reference to the additional fact that the legislative history of these provisions set forth with great clarity the desire of Congress to protect the public interest against land and water monopolies.[3]

On that background reference is now made to part (2) above regarding Public Law 86–488 which refers to the requirement of the San Luis Act that there be a submittal to the Congress of a contract "calling for complete repayment of the distribution systems and drains" 90 days prior to the appropriation of funds to build those systems.

In conformity with the last mentioned section 8 of the San Luis Act the Secretary of the Interior by his letter dated May 1, 1964, transmitted to the Congress what is referred to as "an appropriate contract for construction of the distribution system and drains by the United States and for repayment by the District,"[4] adding that the contract had been negotiated with the Westlands Water Dis-

[1] Section 5 of the original reclamation law provides "no right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one landowner." For a complete review of the several acts which are involved see 68 L.D. 375.

[2] 43 U.S.C. 423(e).

[3] *Ivanhoe Irr. Dist.* v. *McCracken*, 357 U.S. 275, 297 (1957).

[4] Title of the document: "Contract Between the United States and Westlands Water District Providing for the Construction of a Water Distribution and Drainage Collection System."

trict.[5] Among other things that contract, now before the Congress, declares: "Land ineligible to receive water under the water service contract not to receive water service through the distribution system.

"20. No water shall be delivered through the distribution system to any lands or persons not eligible under the terms of articles 23, 24, and 25 of the water service contract to receive water made available pursuant to that contract."

Flowing from that and related provisos in the contract submitted by the Secretary of the Interior is the unavoidable legal result:

This committee will in effect be approving not only the contract which is before it. It will be approving the above-mentioned Westlands "water service contract" of June 5, 1963, which appears to contain clear violations of the excess lands laws.

QUESTION PRESENTED

Will this committee approve a contract which has not been placed before it and which appears to circumvent the congressional will as expressed in the "excess land" provisions of the reclamation laws?

These contracts will have the result of providing unjust enrichment of a few powerful corporation landowners who will be immediately and directly benefited by the contemplated expenditure of $157 million of Federal funds. Thus to subsidize these monopolies in clear violation of the reclamation law is destructive of the basic concepts giving rise to those laws.

Westlands water service contract, a circumvention of the excess land laws

There was attached to the above-mentioned letter of May 1, 1964, from the Secretary of the Interior transmitting the contract for the construction of the distribution and drainage systems a memorandum dated April 28, 1964, from Commissioner of Reclamation Dominy to the Secretary.[6] Contained in that memorandum is a review of many salient facts respecting the contract before this committee—but far from all of them, as will be more fully developed in the paragraphs which succeed. Without further elaboration on the import of it, Mr. Dominy states in the first paragraph that the contract before the committee provides for a system which "is required for the distribution of project water available to the Westlands Water District under long-term contract No. 14-06-200-495A executed on June 5, 1963," hereafter referred to as the water service contract. Following that passing reference to the all-important water service contract, Mr. Dominy proceeds to describe in some detail the area to be served by the system. On the final page of the Dominy memorandum and quite out of context is this statement: "no water shall be delivered through the distribution system to any lands or persons not eligible under the terms of articles 23, 24, and 25 of the district's water service contract to receive water made available pursuant to the contract.

"These articles, the so-called excess land provisions required by reclamation law, are similar in form and content to other water service contracts for the Central Valley project."

However, it would appear from a careful examination of the water service contract and all the surrounding facts that the contract will result in a clear violation of the excess land laws of the Reclamation act.

In that connection, reference is made to the following:

(i) Seventy percent of the lands within the Westlands water district service area are ineligible to receive project water because they are owned in tracts the acreage of which far exceeds the 160-acre limitation.

(ii) All the lands within the water district—the 30 percent of eligible and 70 percent of ineligible alike to receive water—overlie a vast groundwater basin which is in no sense compartmented on the basis of land eligibility.

(iii) "Ground water underlying the district is seriously depleted and in need of replenishment, and that and additional water supply to meet these present and potential needs can be made available by and through the works constructed and to be constructed by the United States." (This is a quote from the water service contract mentioned above.)

(iv) That a substantial share of the waters—not to exceed 117,000 acre-feet annually—to be delivered pursuant to the water service contract for the express purpose of recharging "the seriously depleted" underground water; this 117,000 acre-feet is in addition to seepage from surface irrigation.

(v) That the waters thus induced underground will recharge the ground water for both the lands which are eligible to "receive" groundwater and those which are ineligible to "receive" groundwaters by reason of the "excess land laws."

(vi) That the recharge of the depleted groundwaters under the ineligible lands results in immense benefit, vastly subsidizing those lands at the expense of the individual landowners who comply with the "excess land laws."

Of great interest in regard to the benefits accruing to the large ineligible landowners is Mr. Dominy's additional statement in his memorandum of April 23, 1964:

"The contract (before this committee) provides for repayment of $157,048,000 representing the cost of constructing by the United States of a water distribution and drainage collector system and certain facilities for integrating groundwater with surface water.

"Approximately 400 existing wells in the area will be integrated into the distribution system. Well water will be mixed with surface project water in the main laterals."

Thus the water service contract and Mr. Dominy's memorandum demonstrate conclusively that the project plans are predicated upon utilization of the vast groundwater body which underlies all of the lands irrespective of their eligibility to participate in the available supply.

Essential here is further reference to Mr. Dominy's statement that the provisions of the water service contract "are similar in form and content to other water service contracts for the Central Valley project." However, what Mr. Dominy neglected to say is the fact that the contract with Westlands specifically provides for a recharge of ground water which has the result of benefiting eligible and ineligible lands alike. There is thus a most drastic and far-reaching difference from other Central Valley contracts.

MEANS OF CIRCUMVENTION OF EXCESS LAND LAWS WRITTEN INTO THE WESTLANDS WATER SERVICE CONTRACT

Knowing that the ineligible lands constituting 70 percent of all of the lands within the district will be greatly benefited from project water entering the underlying basin; knowing that the excess land laws prohibit supplying those lands with water; knowing that the spirit and intent of the reclamation laws are being violated, this attempted escape clause was nevertheless written into the water service contract:

"If project water furnished to the district pursuant to this contract reaches the underground strata of excess land owned by a large landowner * * * who has not executed a recordable contract and the large landowner pumps such project water from the underground, the district will not be deemed to have furnished such water to said lands within the meaning of this contract if such water reached the underground strata of the aforesaid excess land as an unavoidable result of the furnishing of project water by the district to nonexcess land or to excess lands with respect to which a recordable contract has been executed."

The kindest thing that may be said in regard to that "escape clause" is that it makes a travesty of the excess land laws.

Illegality of "unavoidable clause" of the Westlands water service contract—or in any other contract entered into pursuant to the reclamation laws

The illegality of the "unavoidable clause" in the Westlands water service contract would appear to be free from doubt. That is manifested by these three facts:

(a) Seventy percent of the lands within the service area of the Westlands district are lands which are in single ownership in excess of 160 acres and overlie the ground water basin which will be recharged with project water delivered by the United States;

(b) The contract for water specifically provides for inducing project waters into the ground water basin and those waters will be available for pumping for use on the 70 percent of the lands ineligible under the excess land laws.

(c) Project waters which are specifically induced underground and those waters from surface irrigation, greatly benefit the ineligible 70 percent of the water district's lands.

A most careful review of the Reclamation Act as amended and the legislative histories which preceded the enactment of those laws reveals a clear violation of the excess land laws by the contract in question. Every phase and facet of those laws and the objectives giving rise to them underscore that violation. It will remembered in regard to this matter that the reclamation laws are unequivocal respecting the 160-acre limitation. Nowhere in the laws themselves nor their antecedents will authority for the "unavoidable clause" in the Westlands contract or other Central Valley contracts be found. Equally important, however, is the fact that the circumstances surrounding Westlands differ drastically from those relating to other Central Calley contracts.

It is essential to find the source of the unavoidable clause written into the Westlands water service contract. In that connection, reference is made to hearings before this committee in 1944. In the report on those hearings under the heading "Legal Basis for Assessment of Excess Landowners by Irrigation Districts," the then chief counsel of the Bureau of Reclamation examined the crucial question on the subject and responded to that query in this manner:

"Assuming that, where the district furnishes water intentionally and according to plan to eligible lands of the district, both by surface facilities for surface irrigation and by such facilities or otherwise for augmentation of the ground water supply, project water is introduced into underground reservoirs underlying ineligible excess lands as well as eligible lands for physical reasons beyond the control of the district, is there a furnishing of water to such ineligible excess lands by the district contrary to the prohibition included in its contract with the United States as required by he reclamation law?

"It is our view that this question is to be answered in the negative, if the further assumption be indulged that the physical introduction of project water on and under project land has for its principal purpose, and its principal result is, the furnishing of irrigation water to eligible lands, with the incidental, and inevitable, result that the

[5] See attached letter of May 1, 1964.

[6] See attached memorandum of Apr. 23, 1964.